

no evidence may be adduced at the appeal hearing. The court shall not reverse the hearing officer's decision unless it is determined to be (i) in violation of law, (ii) not reasonably supported by substantial evidence, based upon a review of the reliable and probative evidence in the record as a whole, or (iii) arbitrary and capricious or characterized by an abuse of discretion.

(e) Service of notice of appeal under this section does not stay the enforcement and collection of the hearing officer's order unless the person who files the appeal also posts a cash appeal bond with the clerk of the municipal court. The appeal bond shall be in the amount of all fines, costs and fees assessed by the hearing officer.

(Ord. No. 95-81, § 1, 1-25-95)

Sec. 45-387. Enforcement.

In addition to the added fine amount for delayed payment as provided in section 45-385(g) of this Code, the failure to comply with an order issued under this article may be enforced in any of the other manners provided in section 5 of article 6701d-24 of the Texas Revised Civil Statutes.

(Ord. No. 95-81, § 1, 1-25-95)

Sec. 45-388. Records.

The clerk of the municipal courts shall maintain a record of all proceedings under this article in the manner provided in section 6 of article 6701d-24 of the Texas Revised Civil Statutes.

(Ord. No. 95-81, § 1, 1-25-95)

Secs. 45-389—45-400. Reserved.

ARTICLE XVII. RESIDENTIAL PARKING PERMITS

DIVISION 1. GENERALLY

Sec. 45-401. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commuter vehicle means a motor vehicle, other than a "resident vehicle" as defined herein, that is

parked in a residential area in which it is not registered with the Texas Department of Transportation.

Curbside parking space means 20 linear feet of curb, excluding those portions of the curb where the parking of any motor vehicle is not permitted.

Parking management means the parking violations bureau of the municipal courts department.

Permit means a current and valid permit issued under division 3 of this article.

Resident means the owner or tenant of residential property in a residential area or the tenant of an apartment complex with not more than 16 units in a residential area.

Resident vehicle means a motor vehicle parked in a residential area in which it is registered with the Texas Department of Transportation.

Residential means pertaining to the use of land for premises such as single-family homes, duplexes, condominiums and apartment complexes with eight or fewer units, that contain habitable rooms for nontransient occupancy and are designed primarily for living, sleeping, cooking and eating therein. A premises that is designed primarily for living, sleeping, cooking and eating therein will be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, suites hotels, motels, apartment complexes with nine or more units, boardinghouses and day care centers shall not be considered to be residential.

Residential area means a contiguous area containing or bounded by public streets or parts thereof abutted by residential property occupying at least 75 percent of the front footage along the blockface. A residential area may be one or more blockfaces within a larger residential area, provided that the director can consider a street of 750 feet in length or greater to be two blockfaces of approximately equal length for purposes of this article if requested by the applicants.

Residential parking permit area means an area designated pursuant to division 2 of this article.
(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-402. Compliance with other laws.

A parking permit issued pursuant to this article does not excuse compliance with any other provisions of state law or this Code relating to parking, including, but not limited to, parking meter payment, "no parking" signs and restricted parking for persons with disabilities.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-403. Offenses.

(a) It shall be unlawful for any person to park a motor vehicle that does not display a permit in a curbside parking space on any day or during any hours for which commuter vehicle parking is prohibited by official signs posted in a residential parking permit area.

(b) It shall be unlawful for any person to represent in any fashion that a motor vehicle is entitled to a permit authorized by this article when it is not so entitled. The display of a permit on a motor vehicle not entitled to the parking permit shall constitute such a representation.

(c) It shall be unlawful for any person to duplicate, or attempt to duplicate, by any means, a permit authorized by this article. It also shall be a violation of this article for any person to display on any motor vehicle a duplicate permit.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-404. Revocation of permit.

In addition to the penalties provided for violation of this article, parking management shall revoke the residential parking permit of any person found to be in continual violation of this article after notice and hearing. Following notice, hearing and determination by parking management that the person is in continual violation of this article, and, upon written notification thereof, the person shall surrender the permit to parking management. Failure to surrender a revoked residential parking permit when requested to do so shall constitute a separate violation of this article.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-405. Defenses.

It shall be an affirmative defense to civil prosecution for violation of this article that the motor vehicle parked in a residential parking permit area was:

- (1) A motor vehicle owned by or operated under contract to a utility and in actual use in the construction, operation, removal or repair of utility property or facilities or engaged in authorized work in the designated residential parking permit area;
- (2) A motor vehicle that was clearly identified as owned by or operated under contract to a federal, state, or local governmental agency, was being used in the course of official government business, and was not parked while the operator was working at his customary office or job site;
- (3) An authorized emergency vehicle; or
- (4) A motor vehicle used for delivery or service business purposes, including but not limited to motor vehicles such as moving vans and sanitation, repair, electrical and plumbing service motor vehicles, that was parked in a residential parking permit area while conducting business at a residence in the residential parking permit area.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-406. Cumulative effect.

This article is cumulative of other requirements imposed by ordinances and regulations of the city. To the extent of any inconsistency, the more restrictive provision shall govern. The authority granted by this article is cumulative of the powers granted by this chapter and does not limit the authority of the traffic engineer or enforcement officers to regulate traffic.

Secs. 45-407—45-410. Reserved.

DIVISION 2. DESIGNATION OF RESIDENTIAL PARKING PERMIT AREAS

Sec. 45-411. Designation.

(a) The city council may designate residential areas within the city with chronic commuter parking problems as residential parking permit areas pursuant to the procedures of this division. For purposes of this division, a "chronic commuter parking problem" means the occupancy of curbside parking spaces by commuter vehicles at the same hours and on the same days, but shall not mean parking for events which by their nature are expected to occur on a frequency of less than once every two weeks.

(b) In carrying the functions assigned to him by this division, the planning official shall consult with and seek the concurrence of the traffic engineer.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-412. Request for designation.

(a) A request for designation of a residential parking permit area shall be initiated by petition of residents within the proposed residential parking permit area. The minimum residential area for which a petition for designation may be submitted is one blockface, including both sides of the street if both sides are residential or one residential blockface if the opposing blockface is not residential. The request shall be filed with the planning official upon a form promulgated for that purpose by the planning official, and shall include, at a minimum, the following:

- (1) A description of the residential area proposed to be included in the residential parking permit area;
- (2) A description of the chronic parking problem or condition to be remedied;
- (3) Evidence of neighborhood support for the project;
- (4) The name, address and telephone number of a resident in the proposed residential parking permit area who shall be the contact for the request;

(5) The names and addresses of all residents within the proposed residential parking permit area;

(6) Any other information reasonably required by the planning official to make any determination required under this article.

(b) The planning official initially shall review each request for completeness. If the planning official determines that the request is complete, the request shall be acted upon as further provided in this article. If the planning official determines that the request is incomplete, he shall return the request with written notice of the deficiencies.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-413. Parking survey.

Upon receipt of a complete application for designation of a residential parking permit area, the planning official shall conduct or cause to be conducted a parking survey of the proposed residential parking permit area. The parking survey shall be conducted in the manner prescribed by the traffic engineer. The parking survey shall determine the following information, as well as any other information that the planning official determines will be useful to verify the chronic commuter parking problem identified in the application:

- (1) The total number of legal curbside parking spaces in the proposed residential parking permit area;
- (2) The number of legal curbside parking spaces that are occupied by motor vehicles;
- (3) The number of curbside parking spaces that are occupied by commuter vehicles; and
- (4) The general hours of occupancy of curbside parking spaces by commuter vehicles.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-414. Criteria for designation.

The planning official, in making a determination of approval or disapproval with respect to

designation, and the city council, in making a designation, shall consider the results of the parking survey and the following criteria:

- (1) The extent to which curbside parking spaces are occupied by motor vehicles. The total number of curbside parking spaces occupied by motor vehicles at the minimum must exceed 60 percent of the number of curbside parking spaces on the public streets of the proposed residential parking permit area for the area to be eligible for designation;
- (2) The extent to which motor vehicles parking in the area are commuter vehicles. The total number of curbside parking spaces occupied by commuter vehicles during any one-hour period must equal or exceed 25 percent of the total number of curbside parking spaces occupied by motor vehicles in the proposed residential parking permit area for the area to be eligible for designation;
- (3) The extent to which residents cannot obtain adequate curbside parking adjacent to or near their residences because of widespread use of available curbside parking spaces by commuter vehicles;
- (4) The time or times of day of greatest commuter parking in the period surveyed;
- (5) The effect on the safety of the residents from intensive commuter vehicle parking;
- (6) The existence of air and noise pollution, hazardous conditions, and deterioration of the residential environment as a result of traffic congestion and insufficient parking in the area;
- (7) The extent and availability to the general public of parking in the residential district;
- (8) The extent that the designation of a residential parking permit area would be likely to reduce traffic congestion and any other problems identified in this section;
- (9) Evidence of support of the residents in the proposed residential parking permit area for the institution of a residential parking

permit system and the willingness of those residents to bear the costs incidental to the issuance of parking permits authorized by this article; and

- (10) Whether the problems identified in this section can reasonably and feasibly be solved at no additional cost to the city through an alternative to the designation of a residential parking permit area.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-415. Parking regulations.

If the planning official determines that an application for designation meets the criteria for designation, the traffic engineer, with the advice of the planning official, shall develop for the proposed residential parking permit area proposed parking regulations that shall establish the days of the week and the times of day that parking by commuter vehicles shall be prohibited in the residential parking permit area. Nothing in this article shall require the traffic engineer to develop any parking regulations for a proposed residential parking permit area for days and times the traffic engineer determines parking would interfere with traffic mobility.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-416. Public hearing.

(a) After determining that an application for designation meets the criteria for designation and developing the proposed regulations for the residential parking permit area, the planning official shall conduct a public hearing to receive comment on the designation of the proposed residential parking permit area and the proposed parking regulations.

(b) The planning official shall give notice of the public hearing no less than 15 days before the date of the public hearing as follows:

- (1) Notice shall be given by mail, addressed to "Occupant," of property within the boundaries of the proposed residential parking permit area; and

- (2) Notice in the form prescribed by the planning official shall be published once in a newspaper of general circulation in the city.

(c) The notice shall clearly state the purpose, date, time and location of the public hearing; the location and boundaries of the proposed residential parking permit area; the regulations proposed for the area; and the parking permit fees that will be charged.

(d) Written notice that is given by mail shall be deemed given when it is deposited in the United States mail, properly addressed, postage paid. The affidavit of a person who has knowledge of the fact that notice was mailed is prima facie evidence that notice has been given as required by this section.

(e) At the public hearing, any interested person may present testimony, orally or in writing, with respect to the proposed residential parking permit area, the proposed regulations and the permit fees. The planning official may establish rules for the conduct of the public hearing.
(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-417. Planning official action.

Following the close of the public hearing, the planning official shall approve or disapprove the proposed residential parking permit area or modify the proposal in response to public comment. If the planning official approves the proposal, with or without modification, he shall recommend the application and the parking regulations developed by the traffic engineer to the city council for designation of the residential parking permit area. If the planning official does not approve the proposal, he shall so advise the applicant, and the application shall not be submitted to the city council.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-418. City council action.

City council designation of a residential parking permit area shall be by motion. Designation of

a residential parking permit area shall be effective 60 days after passage of the motion designating the district.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-419. Notice to residents.

As soon as practicable following the designation of a residential parking permit area, the planning official shall mail to the occupant of every address within the designated residential parking permit area a written notice that shall contain the following information:

- (1) The existence, boundaries and numerical designation of the residential parking permit area;
- (2) The parking restrictions applicable to all motor vehicles in curbside parking spaces along public streets in the designated area that do not properly display a permit authorized by this article;
- (3) The effective date of the regulations;
- (4) The procedures and associated fees to obtain a residential or visitor permit; and
- (5) An application for a residential permit on the form to be prescribed by parking management.

(Ord. No. 01-759, § 2, 8-15-01)

Secs. 45-420—45-429. Reserved.

DIVISION 3. PERMITS

Sec. 45-430. Residential permits.

(a) Upon submission of a complete residential permit application to parking management by a resident of a residential parking permit area, and payment of the fee prescribed in this article, an applicant shall be entitled to receive one residential permit for each motor vehicle described in the application in accordance with the schedule set forth in section 45-433.

(b) A residential permit shall be valid for one year from its date of issuance and may be renewed for as long as the motor vehicle qualifies for a residential permit.

(c) No residential permit shall be issued for a motor vehicle whose owner or principal operator does not reside within the designated residential parking permit area.

(d) A residential permit issued for a motor vehicle that no longer qualifies for a residential permit is void.

(e) An applicant may obtain a replacement residential permit in the same manner and for the same fee as the original residential permit upon providing evidence satisfactory to parking management that the original permit has been destroyed.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-431. Visitor permits.

Upon application of any resident of a residential parking permit area, parking management shall issue to the resident no more than the number of visitor permits determined from the schedule in section 45-433 that will allow motor vehicles displaying the visitor permit to park in curbside spaces in the residential parking permit area except where or at times otherwise prohibited. Each visitor permit shall be valid for one year from the date of issuance. For purposes of this article, the resident shall be the holder of and responsible for the use of any visitor permit issued to the resident.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-432. Permit fees.

The schedule of fees established pursuant to section 45-433 shall be applicable initially to the permits authorized to be issued pursuant to this article. The planning official and parking management shall determine annually in connection with the city's fiscal year whether an increase or decrease in these fees is required for the continued operation of the residential parking permit program and are hereby authorized to make adjustments annually to the schedule of fees. Parking management shall not issue any permit unless and until the applicable fee has been paid.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-433. Schedule of permits and fees.

Number of Motor Vehicles Registered				
	0	1	2	2+
Residential Permits Allowed Per Residential Unit				
Number	0	1	2	2+
Cost of each permit	NA	\$20	\$20	\$20
Visitor Permits Allowed Per Residential Unit				
Number	4	3	2	2
Cost of first permit	\$20	\$20	\$2	\$2
Cost of second permit	\$20	\$2	\$2	\$2
Cost of each additional permit	\$2	\$2	NA	NA

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-434. Display of permits.

(a) Each residential permit shall be permanently adhered to the inside bottom driver side corner of the rear window of the motor vehicle. A permit that is not permanently adhered shall not be a valid permit.

(b) All visitor permits shall be displayed inside the motor vehicle hanging from the rear view mirror so that the permit is easily visible from outside the motor vehicle.

(Ord. No. 01-759, § 2, 8-15-01)

Sec. 45-435. Effect of issuance of permit.

(a) A residential or visitor permit shall not guarantee or reserve a curbside parking space within a residential parking permit area. A permit issued pursuant to this article shall not authorize the standing or parking of any motor vehicle in any place or during any time when the stopping, standing or parking of motor vehicles is prohibited or set aside for specified motor vehicle types. The issuance of a permit shall not excuse the observance of any traffic regulation.

(b) Whenever the holder of a permit, or the motor vehicle for which a residential permit was issued, no longer fulfills one or more of the applicable provisions of this article controlling issuance or renewal of permits, the holder shall notify parking management, who shall direct the holder to surrender the permit or present evidence that the permit has been removed from the motor vehicle.

(c) Until its expiration, surrender or revocation, a permit shall remain valid for the length of time the holder continues to reside within the designated residential parking permit area.

(d) A permit shall be valid only in the residential parking permit area for which it is issued. (Ord. No. 01-759, § 2, 8-15-01)

Secs. 45-436—45-450. Reserved.

ARTICLE XVIII. CERTAIN TRAFFIC CONTROL DUTIES

DIVISION 1. GENERAL

Sec. 45-451. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section:

Off-duty, with respect to a peace officer, means any time other than while the officer is on-duty, as defined herein.

On-duty, with respect to a peace officer, means while performing functions or activities during work hours assigned by the jurisdiction through which the officer holds his commission and for which the officer receives wages that are paid by that jurisdiction.

Peace officer shall mean a person holding a permanent peace officer license issued under chapter 1701, Texas Occupations Code.

Police chief means the Chief of the Houston Police Department.

Traffic control permit means a current and valid permit issued by the police chief pursuant to division 2 of this article to conduct traffic direction.

Traffic direction means any activity by which a peace officer directs vehicular or pedestrian traffic upon a street or upon other property situated in such proximity to a street that the activity affects the flow of vehicular or pedestrian traffic upon a street for the purpose of facilitating ingress or egress to a street in the city from another street, a private street, park-

ing lot, parking garage or other private property. The activity includes, but is not limited to control of traffic by hand signals, whistle or verbal directions, or the assumption of control of the functions of an otherwise automated traffic signal light or control device. The term shall not include the direction of traffic in connection with any construction occurring within or upon a street by personnel employed for that purpose, as authorized by chapter 472, Texas Transportation Code.

(Ord. No. 04-798, § 2, 7-28-04)

Sec. 45-452. Prohibited conduct; defenses.

(a) During the hours between 6:00 a.m. and 7:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, other than a holiday observed by the closure of city offices, it shall be unlawful within the city:

- (1) For any person other than a peace officer to conduct or engage in traffic direction; or
- (2) For any off-duty peace officer to conduct or engage in traffic direction unless a traffic control permit for that activity has been issued pursuant to this article; or
- (3) For any person to hire, employ or otherwise cause, suffer or permit any person to conduct or engage in traffic direction for or on behalf of such person, unless a traffic control permit has been issued pursuant to this article; or
- (4) For any person to conduct or engage in, or hire, employ or otherwise cause, suffer or permit another to conduct or engage in, traffic direction in violation of the terms of a traffic control permit.

(b) It is an affirmative defense to prosecution under this section that:

- (1) The actor is an on-duty peace officer of a jurisdiction other than the city and is conducting or engaging in traffic direction within the legally authorized territory of that jurisdiction;
- (2) The actor is a peace officer of the city or another jurisdiction of this state and con-